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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/800,394

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Paul E. Newson

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PHILADELPHIA, PA 19104-2891

EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT

PAPER NUMBER

2145

MAIL DATE

DELIVERY MODE

03/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/800,394	Applicant(s) NEWSON ET AL.	
	Examiner Jeffrey R. Swearingen	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 22, 23, 25-28 and 64-69 is/are pending in the application.
- 4a) Of the above claim(s) 22, 23 and 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 64-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/5/07 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-8 and 64-69 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 and 64-69 are rejected under 35 U.S.C. 102(b) as being anticipated by Ulrich et al. (US 5,466,200).

5. In regard to claims 1, 8, Ulrich disclosed:

joining a session in a second layer of the network, said second layer having a second session topology which defines a second set of one or more of said second devices to which data may be directly addressed from said first device in said second layer, said second set of devices to which data may be directly addressed from said first device in said second layer being different from said first set of devices to which data may be directly addressed from said first device in said first layer, said destination device being a member of said second set; column 5, line 60 – column 6, line 1; column 9, lines 26-44

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creating a first data package which contains: (a) said first data; and (b) a header; column 8, lines 1-43

addressing said first data package to said destination device in accordance with said second session topology; column 8, lines 42-67

sending said first data package to said destination device according to said first session topology. Column 8, lines 42-67

6. In regard to claims 2, 64, Ulrich further disclosed:

said first device is communicatively coupled to a microphone, and column 8, lines 44-52 capturing said first data using said microphone. Column 8, lines 44-52

7. In regard to claims 3, 65, Ulrich further disclosed:

said destination device is not a member of said second set, column 8, lines 42-67 appending a header to said first data package which indicates that said first data package is to be delivered to said destination device; and column 8, lines 42-67 sending said first data package to a host device different from said destination device, said host device being a member of said first set. Column 8, lines 42-67

8. In regard to claims 4, 66, Ulrich further disclosed:

said destination device is a member of said first set. Column 8, lines 42-67

9. In regard to claims 5, 67, Ulrich further disclosed:

in said host device, receiving a second data package from a second device, said data package comprising: (a) second data; and (b) a header which indicates that said data package is to be delivered to said destination device; and column 8, lines 42-67

said host device sending to said destination device a mixed stream comprising said first data and said second data. column 8, lines 42-67

10. In regard to claims 6, 68, Ulrich further disclosed:

in said host device, receiving a second data package from a second device, said data package comprising: (a) second data; and (b) a header which indicates that said data package is to be delivered to said destination device; and column 8, lines 42-67

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said host device sending said first and second data packages separately to said destination device. Column 8, lines 42-67

11. In regard to claims 7, 69, Ulrich further disclosed:

said sending act comprises sending said first data package using non-guaranteed delivery. Column 8, lines 42-67

12. Applicant's invention (as explained in the specification) is directed toward the transmission of data and audio over separate "layers" between members of an online gaming community. Ulrich creates a large-scale broadcasting network where all concurrent users of the simulated environment receive all data, and specialized audio messages to a smaller "region" of the simulated environment broadcast by users over a microphone.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Perlman	US 5,558,339
Perlman	US 5,586,257
Menashe	US 5,586,937
Ulrich et al.	US 5,690,582
Bobick et al.	US 5,785,630

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey R. Swearingen
Examiner
Art Unit 2145

JRS

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145